

### **REMARKS**

Claims 2-4, 7-17 and 19-21 are pending in the present application. Claim 5 has been rejected under 35 U.S.C. § 112, second paragraph. Claims 2, 5, 7, 11-14, 16 and 19-21 have been rejected under 35 U.S.C. § 102(b) over Ericson (U.S. Patent 4,016,697). Claims 2-4 and 19 have been rejected under § 102(b) over Tashjian (U.S. Patent 2,059,664). Claim 17 has been rejected under 35 U.S.C. § 103(a) over Ericson. Claims 8 and 9 have been rejected under § 103(a) over Ericson in view of Ting (U.S. Patent 4,316,351). Claim 10 has been rejected under § 103(a) over Ericson in view of Ting and further in view of Scott (U.S. Patent 3,594,028). Claim 5 has been cancelled hereby without prejudice. Claims 2 and 19 have been amended hereby. Reconsideration of the present application is respectfully requested in light of the above amendments and below remarks.

Claim 5 has been rejected under the second paragraph of § 112 for being indefinite. Claim 5 has been cancelled hereby without prejudice. Withdrawal of the rejection of claim 5 is therefore respectfully requested.

Claims 2, 5, 7, 11-14, 16 and 19-21 have been rejected under § 102 over Ericson. Applicants respectfully traverse this rejection. The present invention as defined by independent claims 2 and 19 is readily distinguishable from the prior art references in respect of several features.

Ericson describes a tongue and groove arrangement for mating adjacent edge sections (see Figure 10). While the tongue and groove formations can be described as retaining formations, it is clear from Figure 10 that the retaining formation extend laterally from the edge faces. In contrast to the structure disclosed in Ericson, the retaining formation in the present invention as recited in claims 2 and 19 are explicitly recited as being formed on the “**rear face** of the plank profile.” (Emphasis added).

Ericson describes “stuck out projections” (1, 2, 3, 4, 7, 8, 9, 12) as retaining formations in Figures 1-6 but these amount to perforations through the sheet metal and into the core. The primary purpose of these perforations is to give a “stress resistant bond when a series of them are

embedded into a cementitious core” (see column 6 lines 23-25). Such perforations are not arranged to mate “with the attachment formation of the adjacent constructional element” as explicitly required by claims 2 and 19. Nor are they formed adjacent to or as part of the edge sections as defined in claim 3.

The retaining formations of the present invention (e.g., elements 4b, 5d) extend from the rear face of the plank profile as recited in claims 2 and 19. They provide several advantages over the prior art which are neither taught nor suggested.

Firstly, the retaining formations of the present invention as recited in claims 2 and 19 have further applications in that they may also be used as a clipping mechanism for other separate elements to be attached (clipped) to the rear face of the construction element, protruding inwards. These may be suitable for connection with for example, dry wall (plasterboard) connection points, plumbing and wiring brackets or horizontal joint strengthening clips, etc.

Additionally, the retaining formations of the present invention as recited in claims 2 and 19 may be used for fixing the construction element by self-drilling screws and then concealing the adjacent element clipping over the top. This also aids with waterproofing of the joint.

These advantageous applications are available because the retaining formations of the present invention as recited in claims 2 and 19 extend from the “rear face of the plank profile.”

By contrast, the panel in Ericson requires self-drilling screws to be drilled completely through the core 6 and the lower surface of the sheet metal as shown in Figures 7, 8 and 16. Penetration into the construction element by a fixing means creates a number of problems including moisture penetration through the core and into the rear face of the element, consequently requiring a further application of filler and a subsequent coating to cover the resulting hole.

The earlier mentioned perforations in Ericson also allow moisture penetration into and through the construction element and cause corrosion on the raw edges of these perforations unless a further barrier is applied.

The present invention as recited in claims 2 and 19, on the other hand, has no need for such perforations or aforementioned fixing means and therefore requires no barriers or other aesthetic applications consequent to fixing said elements.

Applicants respectfully note that in practice, the perforations of Ericson would render the manufacture of the construction element inconvenient and inaccurate, particularly in regard to the step of moulding a cladding material into the plank profile where a wet slurry of the cladding material is generally poured into the plank profile and cured. Applicants respectfully submit that the use of “perforations” teach away from this practice as the wet slurry would tend to seep through such perforations.

In light of the above, Applicants respectfully submit that the present invention as recited in independent claims 2 and 19 is neither taught nor suggested by Ericson. Withdrawal of the rejection of independent claims 2 and 19 as well as their dependent claims 5, 7, 11-14, 16 and 20-21 over Ericson is respectfully requested.

Claims 2-4 and 19 have been rejected under § 102(b) over Tashjian. Applicants respectfully traverse this rejection.

In Tashjian, as with Ericson, it is readily apparent that the retaining formations (7, 9) extend from edge sections (6, 8) of the panel 2 (see Figures 1-3), not from the rear of the panel as required by claims 2 and 19. Therefore, for the same reasons as discussed previously with respect to Ericson, Tashjian does not teach or suggest the present invention as recited in independent claims 2 and 19. Withdrawal of the rejection of independent claims 2 and 19 as well as their dependent claims 3 and 4 on the basis of Tashjian is respectfully requested.

Claim 17 have been rejected under § 103 over Ericson. Applicants respectfully traverse this rejection. As described above, Ericson does not teach or suggest the present invention as recited in independent claim 2. Claim 17 depends from claim 2 and includes further limitations. Accordingly, Ericson does not teach or suggest the present invention as recited in dependent claim

17. Withdrawal of the rejection of claim 17 on the basis of Ericson is therefore respectfully requested.

Claims 8 and 9 have been rejected under § 103(a) over Ericson in view of Ting. Applicants respectfully traverse this rejection.

As described above, Ericson does not teach or suggest the present in independent claim 2. Claims 8 and 9 depend from claim 2 and includes further limitations. As Ting does not cure the deficiencies in Ericson as described above with respect to claim 2, withdrawal of the rejection of claims 8 and 9 on the basis of the combination of Ericson and Ting is respectfully requested.

Further, the Office Action concedes that with respect to claims 8 and 9, Ericson does not disclose that the lip includes a recess such that, when clipped into or retained at a mating channel of a adjacent constructional element, a recess is defined between a base of the mating channel and the lip; and wherein the channel projects outwards beyond one face, and the lip formed inwards from the opposed edge face.

The Office Action asserts that the aforementioned features on which Ericson is silent are to be found in Ting. Applicant respectfully disagrees that it would have been obvious to a person having ordinary skill in the art at the time of the Applicants' invention to modify the structure of Ericson to include the features taught by Ting. Specifically, it would have been extremely difficult to have modified a simple tongue and groove attachment formation as described in Ericson to arrive at a fully concealed clipping mechanism that is in-built, simple, water proof and structurally sound as is found in the present invention as recited in claims 2, 8 and 9. Applicants respectfully submit that there is insufficient direction or motivation to be found in either Ericson or Ting to combine them and arrive at the present invention as defined in claims 8 and 9 - the leap in development is just too great for a person skilled in the art.

For this additional reason, withdrawal of the rejection of claims 8 and 9 on the basis of the combination of Ericson and Ting is therefore respectfully requested.

Claim 10 has been rejected under § 103(a) over Ericson in view of Ting and further in view of Scott. Applicants respectfully traverse this rejection.

As described above, Ericson does not teach or suggest the present in independent claim 2. Claim 10 depends from claim 2 and includes further limitations. As neither Ting nor Scott cure the deficiencies in Ericson as described above with respect to claim 2, withdrawal of the rejection of claim 10 on the basis of the combination of Ericson, Ting and Scott is respectfully requested.

Further, Applicants respectfully submit that a person skilled in the art could not modify the tongue and groove attachment formation of Ericson sufficiently to readily adopt the features described by Ting and Scott. For this additional reason, withdrawal of the rejection of claim 10 on the basis of the combination of Ericson, Ting and Scott is therefore respectfully requested.

As each of the claims of the present application are in condition for allowance, such action is earnestly solicited.

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